

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID SCOTT,

Plaintiff,

v.

Case No. 13-12781
Honorable Linda V. Parker

MARILYN BRADFORD, WILLIAM
MOLLISON, CHRISTOPHER CORRIVEAU,
MARTIN BAY, D. BISHOP, C. KOBEL,
L. LACEY, AND T. BRANDERVER,

Defendants.

_____/

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE’S JULY
10, 2014 REPORT AND RECOMMENDATION [ECF NO. 64]; (2)
GRANTING DEFENDANT BRADFORD’S MOTION FOR JUDGMENT ON
THE PLEADINGS [ECF NO. 23]; (3) GRANTING DEFENDANT
CORRIVEAU’S MOTION TO DISMISS [ECF NO. 25]; AND (4)
GRANTING DEFENDANT MOLLISON’S MOTION FOR JUDGMENT ON
THE PLEADINGS [ECF NO. 30]**

Plaintiff David Scott commenced this civil rights action pursuant to 42 U.S.C. §§ 1983 and 1988 against Defendants on June 24, 2013. Plaintiff filed an amended complaint on December 10, 2013. In his Amended Complaint, Plaintiff describes eight incidents where one or more of the named defendants allegedly violated his constitutional rights. Defendants Marilyn Bradford, Christopher Corriveau, and William Mollison (hereafter “Defendants”) have filed motions to

dismiss and/or for judgment on the pleadings.¹ (ECF Nos. 23, 25, 30.) Defendants raise several grounds in support of their motions, including their claim that Plaintiff's claims against them are barred by the applicable statute of limitations. This matter has been referred for all pretrial matters to Magistrate Judge David R. Grand.

On July 10, 2014, Magistrate Judge Grand issued a Report and Recommendation (R&R) in which he recommends that this Court find Plaintiff's claims against Defendants barred by the applicable three-year statute of limitations and grant their dispositive motions. (ECF No. 64.) In reaching this decision, Magistrate Judge Grand concludes that Plaintiff has not established his entitlement to equitable tolling. (*Id.* at 10-12.) At the conclusion of his R&R, Magistrate Judge Grand informs the parties that they must file any objections to the R&R within fourteen days. (*Id.* at 12-13.) He further advises that the "[f]ailure to file

¹Defendant D. Bishop filed a motion to dismiss on July 30, 2014 (ECF No. 65) which is not yet ripe for disposition. On July 10, 2014, Magistrate Judge David Grand issued an order for Plaintiff to show cause by July 25, 2014, why his claims against Defendants Martin Bay, C. Kobel, L. Lacey, and T. Branderver should not be dismissed without prejudice due to Plaintiff's failure to serve these defendants with the Summons and Amended Complaint. (ECF No. 63.) Plaintiff has not responded to the order and this Court anticipates that the magistrate judge will soon act on his order.

specific objections constitutes a waiver of any further right of appeal.” (*Id.*, citations omitted). No objections were filed.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Grand. Plaintiff concedes that his claims against Defendants are time-barred absent equitable tolling. (*See* Pl.’s Resp. Br. at 6, ECF No. 45.) This Court agrees with Magistrate Judge Grand’s determination that Plaintiff is not entitled to equitable tolling. But even if equitable tolling saved Plaintiff’s claims against Defendants, the claims otherwise are subject to dismissal for the alternative reason that Defendants Bradford and Mollison are entitled to prosecutorial immunity and Plaintiff’s claims against Defendant Corriveau are barred by the principles of res judicata. The Court therefore adopts Magistrate Judge Grand’s July 10, 2014 Report and Recommendation.

Accordingly,

IT IS ORDERED, that Defendant Marilyn Bradford’s Motion for Judgment on the Pleadings [ECF No. 23] is **GRANTED**;

IT IS FURTHER ORDERED, that Defendant Christopher Corriveau’s Motion to Dismiss [ECF No. 25] is **GRANTED**;

IT IS FURTHER ORDERED, that Defendant William Mollison’s Motion for Judgment on the Pleadings [ECF No. 30] is **GRANTED**;

IT IS FURTHER ORDERED, that Defendants Bradford, Corriveau, and Mollison are **DISMISSED AS PARTIES** to this lawsuit.

S/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: August 15, 2014

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, August 15, 2014, by electronic and/or U.S. First Class mail.

S/ Richard Loury
Case Manager